

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

DESIREE ALLAIRE

Plaintiff,

v.

JODAN KALEMRA, alias, a/k/a  
JODAN KALEMBA, RYDER TRUCK  
RENTAL, LT., RTRT, INC. in its capacity  
As trustee for the Ryder Truck Rental, Lt.  
RYDER TRUCK RENTAL, INC.,  
IRON MOUNTAIN OFF-SITE DATA,  
INC. f/k/a ARCUS DATA SECURITY,  
INC., JOHN DOES 1-5

Defendants.

CIVIL ACTION NO. 03-CV-12566 RWZ

**AFFIDAVIT OF MARK B. LAVOIE IN SUPPORT OF THE DEFENDANTS',  
KALEMBA JODAN, IRON MOUNTAIN INFORMATION MANAGEMENT, INC.  
AND RYDER TRUCK RENTAL, MOTION FOR SUMMARY JUDGMENT**

I, Mark B. Lavoie, under oath and depose, say the following:


1. I am a member in good standing of the Bar of the Commonwealth of Massachusetts. I am a partner at the law firm McDonough, Hacking & Lavoie, LLC. I represent the Defendants, Kalemba Jodan, Iron Mountain Information Management, Inc. and Ryder Truck Rental ("Defendants"), in the above-captioned action. I have personal knowledge of the facts contained herein regarding the following documents submitted as Appendices in support of the Defendants' Motion for Summary Judgment:
2. Attached hereto as Appendix "A" is a true and accurate copy of the Plaintiff's Complaint.
3. Attached hereto as Appendix "B" is a true and accurate copy of the State of New Hampshire Uniform Police Traffic Accident Report.

4. Attached hereto as Appendix "C" is a true and accurate copy of the February 15, 2001 Letter from Trooper Sean T. O'Leary.

5. Attached hereto as Appendix "D" is a true and accurate copy of the Vehicle Control Card for the subject Van for October 24, 2000.

6. Attached hereto as Appendix "E" is a true and accurate copy of the Inspection Report for the subject Van for October 24, 2000.

**SIGNED UNDER THE PAINS AND PENALTIES OF PERJURY THIS 30<sup>th</sup> DAY  
OF AUGUST, 2006.**

  
\_\_\_\_\_  
Mark B. Lavoie, BBO# 553204  
McDonough, Hacking & Lavoie, LLC

## **APPENDIX A**

FILED  
UNITED STATES DISTRICT COURT  
FIRST DISTRICT OF MASSACHUSETTS

2003 DEC 19 P 1:56

DESIREE M. ALLAIRE  
Plaintiff

U.S. DISTRICT COURT  
DISTRICT OF MASS.

RECEIPT # \_\_\_\_\_  
AMOUNT \$ 150.00  
SUMMONS ISSUED Y. A.  
LOCAL RULE 4.1 \_\_\_\_\_  
WAIVER FORM \_\_\_\_\_  
MCF ISSUED \_\_\_\_\_  
BY DPTY. CLK. PN  
DATE 12-19

vs.

Docket No.

JODAN KALEMRA, alias, a/k/a JODAN KALEMBA  
RYDER TRUCK RENTAL, LT., RTRT, INC. in its  
capacity as trustee for the Ryder Truck Rental, Lt.  
RYDER TRUCK RENTAL, INC.,  
IRON MOUNTAIN OFF-SITE DATA, INC. f/k/a  
ARCUS DATA SECURITY, INC.,  
JOHN DOES 1-5

Defendants

03-cv-12566-RWZ

MAGISTRATE JUDGE Boulle

COMPLAINT

This is a claim for damages as a result of an automobile accident caused by the  
defendants that occurred on or about December 24, 2000 in the City of Nashua, State of New  
Hampshire.

Jurisdiction

This is an action brought pursuant to 28 U.S.C. § 1332, diversity of citizenship  
jurisdiction, in that Plaintiff is domiciled in the State of Rhode Island, the individual defendant is  
a resident of the Commonwealth of Massachusetts and the corporate defendants are organized  
and existing under the laws of Massachusetts, Florida and Delaware and the matter in  
controversy exceeds \$75,000 exclusive of interest and costs. Every issue of law and fact in this  
action is between citizens of different states.

**Parties**

1. Plaintiff Desiree M. Allaire ("Allaire") is a resident of the Town of South Kingston, County of Washington, State of Rhode Island.
2. Defendant Jodan Kalemra, alias, a/k/a Jodan Kalembe ("Kalemra") is a resident of the Commonwealth of Massachusetts, currently residing at 248 Calvary Street, Waltham, Massachusetts.
3. Defendant, Ryder Truck Rental, LT ("Ryder LT") is a Delaware Trust, doing business as a Foreign Trust of Massachusetts and authorized to do business in the Commonwealth of Massachusetts with a business address of 101 Federal Street, Boston, Massachusetts.
4. Upon information and belief, RTRT, Inc. is a Delaware corporation authorized to do business in the Commonwealth of Massachusetts serving in its capacity as Trustee of Defendant Ryder LT.
5. Defendant, Ryder Truck Rental, Inc. ("Ryder") is a corporation organized and formed under the laws of the State of Florida and authorized to do business in the Commonwealth of Massachusetts with a business address of 220 Tapley Street, Springfield, Massachusetts 01104. Upon information and belief, Ryder and Ryder LT are members of a joint business enterprise in the operation of the leasing of motor vehicles to the public at large.
6. Defendant, Iron Mountain Off-Site Data Protection Inc. ("Iron Mountain") formerly known as Arcus Data Security, Inc. ("Arcus") is a Delaware Corporation authorized to do business in the Commonwealth of Massachusetts with a business address of 745 Atlantic Avenue, Boston, Massachusetts 02111.

7. Defendant John Does one (1) through five (5) are potential liable parties for the accident that occurred on December 24, 2000 whose names and identities are currently unknown to plaintiff.

**Facts**

8. On or about December 24, 2000 at approximately 3:30 p.m., Plaintiff Allaire was a passenger in a motor vehicle operated by Scott Peters on a public highway in Nashua, New Hampshire.

9. On the same date and time, Defendant Kalemra was operating a motor vehicle in a southerly direction in the second lane of the same public highway in Nashua, New Hampshire. Upon information and belief, the motor vehicle operated by Defendant Kalemra is owned by Defendant Ryder LT.

10. Defendant Kalemra was operating the vehicle in the course of his employment and/or business relationship with, and for the benefit of, Defendant Arcus at the time of the accident.

11. Defendant Kalemra, at the same time and place, operated said van so negligently, carelessly and recklessly that he lost control of the vehicle, causing it to collide with the vehicle occupied by Plaintiff, causing Plaintiff Allarie to suffer severe and permanent injuries as set forth herein.

12. Defendant Kalemra operated the van with the consent and permission of the owner, Defendant Ryder LT, who is legally responsible and liable for the negligence of Defendant Kalemra, an authorized and approved operator of the subject motor vehicle.

**COUNT I**  
**(Negligence)**

13. The Plaintiff reincorporates paragraphs 1 through 12 of her complaint as if fully set forth herein.

14. At the same time and place, the van owned by Defendant Ryder LT and operated by Defendant Kalemra was so negligently, carelessly and recklessly driven and operated that it struck the automobile occupied by Plaintiff Allaire causing severe and permanent injuries as hereinafter alleged to Plaintiff Allaire.

15. The accident and resulting damages and injuries to Plaintiff Allaire were caused by the negligence of the Defendants without any negligence on the part of Plaintiff Allaire, who was in the exercise of due care at the time of the accident.

16. As a direct and proximate result of the collision, Plaintiff Allaire was seriously and permanently injured, sustaining severe personal injuries, pain and suffering, medical expenses, lost wages, and will continue to suffer great pain of the body and mind and incur further medical expenses. Her ability to engage in her usual activities and to enjoy life has been permanently and adversely affected.

WHEREFORE, Plaintiff respectfully requests that judgment enter in her favor against all Defendants, jointly and severally for a sum sufficient to meet the jurisdictional requirements of this court, plus interest, costs, attorneys' fees and such other relief as this court deems just and proper.

**COUNT II**  
**(Negligent Hiring and Supervision)**

17. The Plaintiff reincorporates paragraphs 1 through 16 of her complaint as if fully set forth herein.

18. By information and belief, Defendant Kalemra was unqualified to operate the subject van and untrained and unprepared to encounter emergency conditions on the highway.

19. Defendant Arcus hired Defendant Kalemra to operate the van notwithstanding Defendant Kalemra's unfitness or lack of training for the position, of which Arcus knew or should have known.

20. As a result of the negligence, carelessness and recklessness of Arcus in the hiring, training, retention and supervision of Defendant Kalemra, Plaintiff Allaire was seriously and permanently injured, sustaining severe personal injuries, hospitalization, pain and suffering, medical expenses and lost wages, and will continue to suffer great pain of the body and mind. Her ability to engage in her usual activities and to enjoy life has been permanently and adversely affected.

WHEREFORE, Plaintiff respectfully requests that judgment enter in her favor against all Defendants, jointly and severally for a sum sufficient to meet the jurisdictional requirements of this court, plus interest, costs, attorneys' fees and such other relief as this court deems just and proper.

**COUNT III**  
**(Negligent Maintenance)**

21. The Plaintiff reincorporates paragraphs 1 through 20 of her complaint as if fully set forth herein.

22. Defendant Kalemra lost control of his vehicle after his tire tread separated from the tire.

23. The tire on the vehicle being operated by Defendant Kalemra was a reconditioned tire, commonly known as a "re-tread". The tire was placed or caused to be placed on the vehicle



by Defendant Arcus, Defendant Ryder LT and/or Defendant Ryder with full knowledge of its condition.

24. Defendants Arcus, Ryder LT and Ryder had a duty to inspect and maintain the vehicle, and keep it in good repair, in a manner that it is safe for highway travel.

25. Defendants Arcus, Ryder LT and Ryder knew or should have known, through regular inspection and maintenance, that the tire was unfit for use, that it was subject to failure, and that it presented a danger to the public.

26. Defendants Arcus, Ryder LT and Ryder failed to inspect and maintain the vehicle so that it was in a condition that was safe for highway travel. This omission on their part constitutes negligence by the defendants.

27. As a result of the negligence, carelessness and recklessness of Defendants Arcus, Ryder LT and Ryder in the inspection, maintenance and repair of the subject van, Plaintiff Allaire was seriously and permanently injured, sustaining severe personal injuries, hospitalization, pain and suffering, medical expenses and lost wages, and will continue to suffer great pain of the body and mind. Her ability to engage in her usual activities and to enjoy life has been permanently and adversely affected.

WHEREFORE, Plaintiff respectfully requests that judgment enter in her favor against all Defendants, jointly and severally for a sum sufficient to meet the jurisdictional requirements of this court, plus interest, costs, attorneys' fees and such other relief as this court deems just and proper.

**COUNT IV**  
**(Negligence-Respondeat Superior)**

28. The Plaintiff reincorporates paragraphs 1 through 27 of her complaint as if fully set forth herein.

29. At the time Defendant Kalemra was operating the Ryder LT motor vehicle as described above, he was acting at the direction of Defendant Arcus and within the scope of his authority and in furtherance of his employment or agency relationship with this defendant.

30. The negligence of Defendant Kalemra is therefore imputed to Defendant Arcus under the basic principles of respondeat superior.

31. The accident and resulting damages and injuries to Plaintiff Allaire were caused by the negligence of the Defendants and without any negligence on the part of Plaintiff Allaire, who was in the exercise of due care at the time of the accident.

32. As a direct and proximate result of the collision, Plaintiff Allaire was seriously and permanently injured, sustaining severe personal injuries, pain and suffering, medical expenses, lost wages, and will continue to suffer great pain of the body and mind and incur further medical expenses. Her ability to engage in her usual activities and to enjoy life has been permanently and adversely affected.

WHEREFORE, Plaintiff respectfully requests that judgment enter in her favor against all Defendants, jointly and severally for a sum sufficient to meet the jurisdictional requirements of this court, plus interest, costs, attorneys' fees and such other relief as this court deems just and proper.

**COUNT V**  
**(Negligence-Respondeat Superior)**

33. The Plaintiff reincorporates paragraphs 1 through 32 of her complaint as if fully set forth herein.

34. At the time Defendant Kalemra was operating the Ryder LT motor vehicle as described above, Ryder and Ryder LT were engaged in a joint business enterprise for the purpose of leasing motor vehicles to the public at large.

35. The negligence of Defendant Ryder LT is therefore imputed to Defendant Ryder and, vice versa, under the basic principles of respondeat superior.

36. The accident and resulting damages and injuries to Plaintiff Allaire were caused by the negligence of the Defendants and without any negligence on the part of Plaintiff Allaire, who was in the exercise of due care at the time of the accident.

37. As a direct and proximate result of the collision, Plaintiff Allaire was seriously and permanently injured, sustaining severe personal injuries, pain and suffering, medical expenses, lost wages, and will continue to suffer great pain of the body and mind and incur further medical expenses. Her ability to engage in her usual activities and to enjoy life has been permanently and adversely affected.

WHEREFORE, Plaintiff respectfully requests that judgment enter in her favor against all Defendants, jointly and severally for a sum sufficient to meet the jurisdictional requirements of this court, plus interest, costs, attorneys' fees and such other relief as this court deems just and proper.

**The plaintiff hereby demands a trial by jury and designates  
Scott DeMello as trial counsel.**

Plaintiff, Desiree M. Allaire  
By her attorney,

A handwritten signature in cursive script, appearing to read "Scott DeMello", is written over a horizontal line.

Scott DeMello, BBO#566981

**DEMELLO & CLARK**

109 Oak Street

Newton, MA 02464

(617) 630-8191

Dated: December 19, 2003

## **APPENDIX B**

Please Print or Type (Single Space) TO BE COMPLETED AND FILED WITHIN 15 DAYS Sheet 1 of 4 Sheet(s)

<b>LOCAL USE</b> B00-2318A		<b>STATE OF NEW HAMPSHIRE</b> <b>UNIFORM POLICE</b> <b>TRAFFIC ACCIDENT REPORT</b> DSMV/169 (Rev 10/95)		<b>M.V. USE ONLY</b> No. <b>36574</b> Data Rec'd	
Amended Report <input type="checkbox"/>	HR and Run <input type="checkbox"/>			NR <input type="checkbox"/>	Supplemental Report <input type="checkbox"/>
DATE OF ACCIDENT 12-24-2000		DAY OF WEEK Sunday		TIME OF ACCIDENT (Military) 1534	
TOTAL KILLED <input type="checkbox"/> 0		TOTAL INJURED <input type="checkbox"/> 3		TOTAL VEHICLES <input type="checkbox"/> 2	
POLICE NOTIFIED 1632		POLICE ARRIVED 1644		AMBULANCE ARRIVED 1645	
ACCIDENT OCCURRED ON: 300		MILES N <input checked="" type="checkbox"/> E <input type="checkbox"/> S <input type="checkbox"/> W <input type="checkbox"/> OF		INTERSECTING ROAD, BRIDGE, TOWN LINE (not telephone pole, house)	
F.E. EVERETT TURNPIKE ROUTE NO. AND/OR STREET NAME		AT INTERSECTION WITH EXIT 7		POSTED SPEED 55	
FIRST NODE		DISTANCE FROM FIRST NODE TOWARD SECOND		SECOND NODE	
MAP 10 ZONE NODE SUP		FEET		MAP 10 ZONE NODE SUP	
UNIT NO. 1		INFORMATION		UNIT NO. 2	
BICYCLE <input type="checkbox"/>		SUMMONED <input type="checkbox"/> ARRESTED <input type="checkbox"/> M.V.R. YES <input type="checkbox"/>		BICYCLE <input type="checkbox"/>	
PEDESTRIAN <input type="checkbox"/>		CHARGE:		PEDESTRIAN <input type="checkbox"/>	
DRIVER LICENSE NO. 018821401		STATE MA CLASSIFICATION D		DRIVER LICENSE NO. 0000987	
DRIVER'S NAME LAST, FIRST, MIDDLE KALEMRA, JODAN		DOB 02-20-87 SEX M RESTRICTIONS/ENDORSEMENTS COMPLIED WITH YES <input type="checkbox"/>		DRIVER'S NAME LAST, FIRST, MIDDLE PETERS, SCOTT A	
CURRENT ADDRESS, NUMBER AND STREET 14 DARTMOUTH STREET		PHONE NO. (781)847-0132		CURRENT ADDRESS, NUMBER AND STREET 144 SEAVIEW DRIVE	
CITY/TOWN WALTHAM		STATE MA ZIP CODE 02453		CITY/TOWN WARWICK	
PLATE NUMBER G88478		PLATE TYPE COMM		PLATE NUMBER 26344	
MAKE GMC		YEAR 99		MAKE CHEV	
V.I.N. 1GTHG39RXX1134102		OWNER NAME LAST, FIRST, MIDDLE RYDER TRUCK RENTAL LTD		V.I.N. 1GTHG39RXX1134102	
CURRENT ADDRESS, NUMBER AND STREET		PHONE NO.		CURRENT ADDRESS, NUMBER AND STREET	
CITY/TOWN		STATE		CITY/TOWN	
INSURANCE CO. & POLICY # ZURICH		OR DSMV 385 ISSUED		INSURANCE CO. & POLICY # MET LIFE	
VEHICLE TOWED <input checked="" type="checkbox"/>		BY: QUICK RESPONSE		VEHICLE TOWED <input type="checkbox"/>	
		NASHUA, NH		ANDY'S TOWING	
		NASHUA, NH			

REF.	26	27	28	29	NAME(S) OF OCCUPANTS OR WITNESSES ADDRESS / PHONE	30	31	32	33
1	1	N	4	33	DRIVER, VEHICLE 1	1	1	8	M
2	2	A	3	32	DRIVER, VEHICLE 2	1	1	1	M
3	2	A	3	22	DEBREE ALLAIRE SAME AS DRIVER, VEHICLE 2	3	1	1	F
4	2	A	3	17	RENEE MENARD 223 THOMAS DRIVE CASTLEBURY, FL 32609-6990	2	1	5	F
5	W			26	JESSICA L. JACZUK-HANDLEY 428-3102				F
6	W			34	CHRISTOPHER ZENAR 485-8803				M

36594-

UNIT NO. 1	UNIT NO. 2
<div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> INDICATE PROBABLE POINT OF IMPACT</div><div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20</div></div> <div style="display: flex; justify-content: space-between;"><div>11 Undercarriage 12 Roll-over 13 Fire/Explosion 14 Tires</div><div>15 Rear 2 16 Rear 16 17 11 10 9 8 7</div></div> <div style="text-align: center;">Circle numbers indicating areas damaged.</div>	<div style="display: flex; justify-content: space-between;"><div><input type="checkbox"/> INDICATE PROBABLE POINT OF IMPACT</div><div>1 2 3 4 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20</div></div> <div style="display: flex; justify-content: space-between;"><div>15 Undercarriage 17 Roll-over 18 Fire/Explosion 19 Tires</div><div>16 Rear 16 17 11 10 9 8 7</div></div> <div style="text-align: center;">Circle numbers indicating areas damaged.</div>

Rear	Passing	Lt. Turn	Rt. Turn	Head-On	Reversing
→ →	↗ ↘	↙ ↘	↙ ↘	↔	↔
↙ ↘	↙ ↘	↙ ↘	↙ ↘	↔	↔

Indicate Vehicle Numbers on Arrows Above

**ACCIDENT SKETCH**  
Indicate North

By Arrow

- SEE ACCOMPANYING TRAFFIC CRASH DIAGRAM -

**GIST OF ACCIDENT**

On December 24, 2000 at approximately 3:35 p.m., I was dispatched by Troop B to respond to a reported motor vehicle crash on the F.E. Everett Turnpike southbound in Nashua, NH. The crash was reported to be just north of exit 7 and involved numerous vehicles. Upon my arrival at the scene, I observed Vehicle 1 stationary, facing northeasterly across the 2nd and 3rd lanes. I could also see numerous yaw marks leading to Vehicle 1 indicating that it had spun to this final rest position. I also saw Vehicle 2 at its final rest facing westerly at the bottom of the small embankment located beyond the outside shoulder of the roadway. Additionally, I could see clearly see the path Vehicle 2 had traveled after leaving the paved surface and leading to its final rest. Several persons were around Vehicle 2 and I was advised that the occupants of this truck were all hurt.

After positioning my cruiser for traffic control and safety of the scene, I attempted to provide immediate medical attention to the driver and occupants of Vehicle 2. The driver of Vehicle 2 was outside and bleeding profusely from his head. He was conscious and standing and was able to provide information to me. After assisting him and enlisting the aid of a passerby, I tried to aid the two passengers who were both still seated inside the truck. Shortly thereafter, Nashua Fire, Rescue and EMS personnel arrived on scene and took over treatment.

Next, I located and spoke with the driver of Vehicle 1. After securing his license and registration, and then removing his vehicle from the roadway, I spoke with him about what had happened during the crash. According to the driver of Vehicle 1, he was travelling south in the center lane when the van began to shake. He stated that he believed his van was traveling about 55 M.P.H. Continuing, he stated that he attempted to slow down when the van began to swerve uncontrollably. He advised that he doesn't clearly remember hitting the truck, but knows his van and the truck collided. He continued that his van began to spin and came to a stop in the roadway where I found it. During this interview, I could find no evidence of driver impairment.

SIGNATURE OF INVESTIGATING OFFICER Tpr Sean T. O'Leary  #852	DATE OF REPORT 12-24-2000
DEPARTMENT / DIVISION / TROOP Department of Safety/Division of State Police/Troop B	REVIEWED BY PHOTOS TAKEN YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> BY:



02/05/01 13:21:29



HT-CWS-CH4-&gt;

401 827 6898 NightFAX

Page 004

LOCAL USE <b>B00-2318A</b>	STATE OF NEW HAMPSHIRE TRAFFIC ACCIDENT REPORT SUPPLEMENTAL INFORMATION		Sheet 2 of 4 Sheet(s) M.V. USE ONLY <b>36594</b>	
Please Print or Type			Amended Report <input type="checkbox"/>	Hit and Run <input type="checkbox"/>
DATE OF ACCIDENT <b>12-24-2000</b>	DAY OF WEEK <b>Sunday</b>	TIME OF ACCIDENT (Military) <b>1734</b>	CITY / TOWN <b>NASHUA</b>	

When my conversation with the driver of Vehicle 1 was finished, I took the opportunity to examine the tire on Vehicle 1. I saw that the right rear tire was completely separated from the rim with the exception of a small portion of the outside of the tread, which was still attached. From this brief examination, I determined that the tire was not a standard tire. It was unclear to me why this had happened. From speaking with the listed witnesses, nothing led me to believe that the vehicle (Vehicle 1) was being operated in a reckless manner, or a manner beyond the capabilities of the vehicle or its equipment.

Once both vehicles were recovered by the respective tow companies listed, I left the scene and went to St. Joseph's Hospital in Nashua, NH to speak with the driver of Vehicle 2. This driver advised me that his vehicle had just entered the F.E. Everett Turnpike southbound, coming onto the highway at exit 5. He advised that his vehicle was in the second (outside/center) lane continuing south when it was impacted by Vehicle 1. He stated that he had no time to react before losing control of the his vehicle. While checking on the driver of Vehicle 2, I also took the opportunity to check on the condition of his two passengers, both of whom had been transported to Southern New Hampshire Regional Medical Center in Nashua, NH. While both passengers had significant injuries, I was advised by hospital staff that they should fully recover. Likewise, the driver of Vehicle 2 was expected to be released from St. Joseph's later this evening.

Based upon my observations of the vehicles and evidence I saw at the scene, coupled with the statements of the parties involved and supported by the witnesses, I made the following determination as to how this crash occurred. Vehicle 1 and Vehicle 2 were both traveling south on the F.E. Everett Turnpike, approaching exit 7-W. Vehicle 1 was in the center of 5 lanes while Vehicle 2 was in the outside center lane in close proximity to Vehicle 1. Both vehicles were traveling at approximately the posted speed limit of 55 M.P.H.

Just north of exit 7-W, the right rear tire on Vehicle 1 falls, causing the tread to separate from the rim. Vehicle 1 begins a clockwise spin and enters Vehicle 2's lane of travel as Vehicle 2 is overtaking Vehicle 1. The right front corner of Vehicle 1's front end impacts Vehicle 2 on the left side causing a weight transfer of Vehicle 2 to occur. Vehicle 2 begins to yaw to the right, and the driver corrects trying to regain control. As Vehicle 2 is doing this, Vehicle 1 continues to travel in a southerly direction and reverses its spin to a counter-clockwise direction traveling approximately 200 feet before coming to final rest as previously described.

After its impact with Vehicle 1, Vehicle 2 traveled easterly to the inside breakdown lane before recrossing all travel lanes and leaving the roadway to the outside. Once leaving the roadway, Vehicle 2 traveled down the shoulder and then climbed the embankment beyond the shoulder. Still traveling in a southerly direction, Vehicle 2 impacted the sound reducing wall located at the top of this embankment, some 50 feet from the paved surface. Vehicle 2 impacted a portion of the wall and then a cement post head-on. Vehicle 2 then disengaged from the post and slid back down the embankment (backwards) before coming to final rest facing westerly at the bottom of the slope.

Upon examining the interior of Vehicle 2, I could clearly see where all three occupants had impacted the windshield. It was very apparent that none of Vehicle 2's occupants were restrained at the time of the crash. Because the center passenger in the pickup is only 17 years old, Vehicle 2's driver was cited for a violation of the Child Restraint requirement under NH RSA 266:107-a. However, no citations were issued for driver error in this crash. It is my determination that the crash was the result of defective equipment which was beyond the control of either driver. END OF REPORT.

h2 0 Wd 8 11:00 PM

Tpr. Sean T. O'Leary

New Hampshire State Police

Troop B



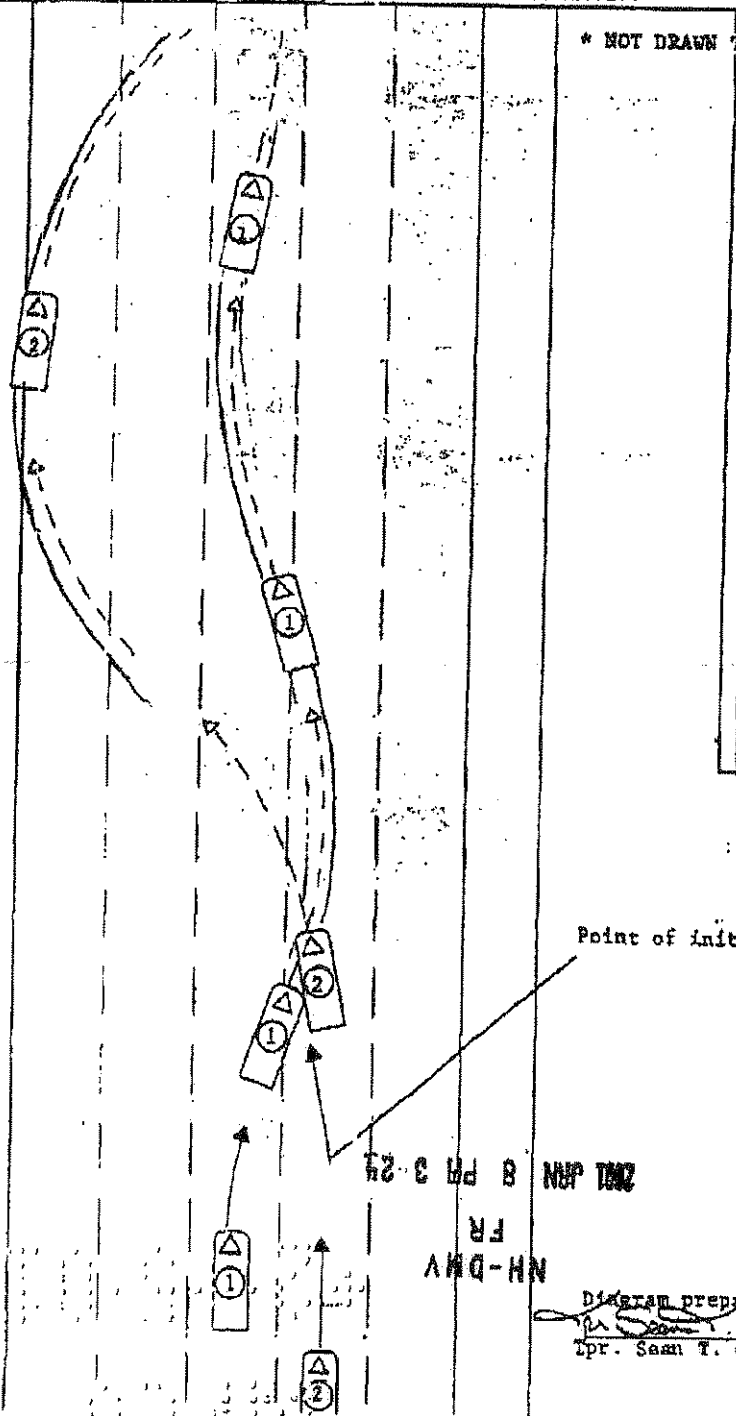
LOCAL USE <b>B00-2318A</b>		STATE OF NEW HAMPSHIRE TRAFFIC ACCIDENT REPORT SUPPLEMENTAL INFORMATION		Sheet 3 of 4 Sheet(s) M.V. USE ONLY <b>36594</b>	
Please Print or Type				Amended Report <input type="checkbox"/> Hit and Run <input type="checkbox"/>	
DATE OF ACCIDENT <b>12-24-2000</b>	DAY OF WEEK <b>Sunday</b>	TIME OF ACCIDENT (Military) <b>1734</b>	CITY / TOWN <b>NASHUA</b>		

Page 1 of 2

FEVERETT TURNPIKE SOUTHBOUND

BARRIER WALL

\* NOT DRAWN TO SCALE



Point of initial impact

2001 JUN 8 PM 3:24  
 FR  
 NH-DMV

Diagram prepared by:  
 [Signature]  
 Tpr. Sean T. O'Leary



LOCAL USE <b>B00-2318A</b>		STATE OF NEW HAMPSHIRE TRAFFIC ACCIDENT REPORT SUPPLEMENTAL INFORMATION		Sheet 4 of 4 Sheet(s) M.V. USE ONLY <b>36574</b>	
Please Print or Type				Amended Report <input type="checkbox"/> Hit and Run <input type="checkbox"/>	
DATE OF ACCIDENT <b>12-24-2000</b>	DAY OF WEEK <b>Sunday</b>	TIME OF ACCIDENT (Military) <b>1734</b>	CITY / TOWN <b>NASHUA</b>		

Page 2 of 2

Veh. 1 at final rest

FEVERETT TURNPIKE SOUTHBOUND

EXIT 7-W

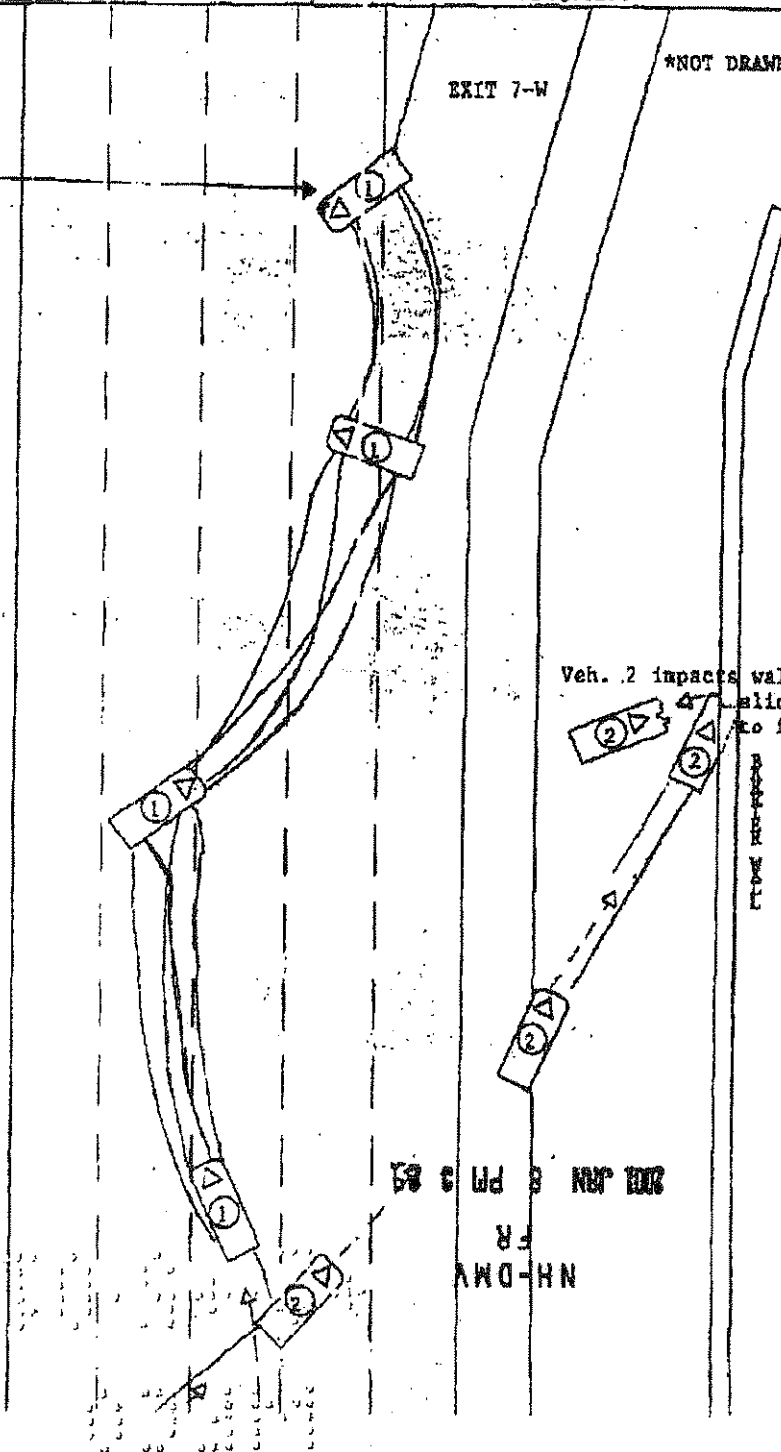
\*NOT DRAWN TO SCALE

Veh. 2 impacts wall, then slides back to final rest

WALL

2001 JAN 8 PM 3 53

8  
NH-DMV



## **APPENDIX C**



# State of New Hampshire

DEPARTMENT OF SAFETY  
Richard M. Flynn, Commissioner of Safety  
**Division of State Police**

James H. Hayes Safety Building, 10 Hazen Drive, Concord, NH 03305

271-2575

Speech/Hearing Impaired  
TDD Access: Relay NH  
1-800-735-2964

Colonel Gary M. Sloper

February 15, 2001

Melody A. Alger, Esquire  
Law Offices of Baluch, Gianfrancesco, Mathieu & Szerlag  
Attorneys at Law  
155 South Main Street, Suite 101  
Providence, Rhode Island 02903-2963

Re: NH State Police case #B00-2318A

Dear Ms. Alger,

On February 14, 2001 I received your written request for the crash report for the above listed case number. Please be advised that this is the first notification I have received from your firm regarding this matter. While I am completely familiar with the case you are requesting information on, regrettably I am not in a position to provide you with those documents. All requests of this nature must be processed through the New Hampshire Department of Safety, Division of Motor Vehicles in Concord, NH. This is the agency that maintains and distributes those reports once they are completed and approved. For your convenience, I have included the appropriate request form that you need to send to Concord. I apologize for any inconvenience this has, or may cause to you and your clients, but it is the necessary course that must be followed to honor your request.

I would also like to advise you that I have been in contact with the National Highway Traffic Safety Administration regarding the nature of this crash. While the specific tire model was not a type recalled by that agency as part of their investigation of the Bridgestone/Firestone Corporation, I felt the circumstances of this crash were very similar to those documented so heavily in the press during the previous weeks to this particular crash. The tire "cap" I recovered from the scene has been forwarded to NHTSA and will be maintained as part of that investigation. It is my understanding that, once that investigation is complete, all evidence will be destroyed. While the tire separation surely played a significant role in this crash, it is of no value for the New Hampshire State Police to retain custody of the "cap."

If I can be of any assistance to you or your clients, please do not hesitate to contact me. Good luck with your case.

Sincerely,

Tpr. Sean T. O'Leary  
Technical Accident Reconstruction Unit  
NH State Police, Troop B  
Milford, NH 03055

## **APPENDIX D**

SH110R01

R Y D E R T R U C K R E N T A L , I  
VEHICLE CONTROL CARD

\*\*\* VEHICLE NO. 368077 \*\*\*

REPAIR ORDER	REPAIR ORDER	ODOMETER	REPAIR	TASK	DESCRIPTION
DATE	NUMBER		REASON		
12/22/02	0802095	137028	38	002 000 000 034 000 000 042 004 001	CAB SHEET METAL LIGHTING SYSTEM REPLACE WATER PUMP AS
10/21/02	0337081	000011	38	044 003 001	REPLACE FUEL PUMP ASS
10/08/02	0784063	132603	38	002 022 001 013 002 019 033 000 000	REPLACE LOCKS REAR - REPLACE REAR BRAKE CY IGNITION SYSTEM
10/06/02	0784010	132603	38	002 020 002 002 035 029 031 001 026 034 002 004 042 000 000 044 000 000 102 107 000	REPAIR LOCK - SIDE DO REPLACE WINDSHIELD WI REPLACE BELT GENERATO REPAIR SOCKET AND WIR COOLING SYSTEM FUEL SYSTEM INSPECT 'B' PM WITH O
05/30/02	0753268	117202	08	002 035 029 027 000 000 034 002 002 044 000 000 103 107 000	REPAIR WINDSHIELD WIP TRANS. MAIN, AUTO REPAIR RIM - REAR LAM FUEL SYSTEM INSPECT 'C' PM WITH O
04/26/02	0744048	112856	38	044 007 002	REPLACE ACCEL. PEDAL
02/08/02	0725335	110467	38	013 001 029 018 001 010 831 000 000	REPLACE FRONT DISC BR REPLACE STUD OR BOLT EXEMPT PARTS
02/07/02	0725376	110468	11	017 000 000 017 001 001	INSPECT TIRES REPLACE 1ST AXLE OR S
02/06/02	0725205	110467	08	002 020 002 102 107 000 143 000 000 831 000 000	REPAIR LOCK - SIDE DO INSPECT 'B' PM WITH O INSPECT WASH AND STEA EXEMPT PARTS
01/23/02	0417100	000011	11	143 000 000	INSPECT WASH AND STEA
10/03/01	0694737	106092	08	044 000 000 102 107 000	FUEL SYSTEM INSPECT 'B' PM WITH O
09/26/01	0692614	105147	04	034 004 005	REPAIR WIRING - BODY
07/31/01	0678412	101899	04	017 000 000 017 001 004	INSPECT TIRES REPLACE 1ST AXLE OR S
07/26/01	0676936	101790	04	043 002 001	REPAIR MANIFOLD - EXH
07/25/01	0389310	000011	11	110 000 000	'F' PM
07/16/01	0671291	099601	08	027 000 000	TRANS. MAIN, AUTO

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R Y D E R T R U C K R E N T A L , I  
VEHICLE CONTROL CARD

\*\*\* VEHICLE NO. 368077 \*\*\*

REPAIR ORDER	REPAIR ORDER	ODOMETER	REPAIR	TASK	DESCRIPTION
DATE	NUMBER	REASON			
				044 000 000	FUEL SYSTEM
				103 107 000	INSPECT 'C' PM WITH O
05/16/01	0659668	093787	38	002 035 029	REPLACE WINDSHIELD WI
04/24/01	0653541	091349	38	034 004 002	REPAIR HARNESS ASSEMB
				043 002 003	INSPECT GASKETS - EXH
				044 000 000	FUEL SYSTEM
				102 107 000	INSPECT 'B' PM WITH O
12/12/00	0611819	082666	38	013 002 006	REPAIR SPRING - REAR
				013 003 021	REPAIR CABLE - EQUALI
11/28/00	0609987	081669	38	002 022 001	REPAIR LOCKS REAR - D
				013 001 029	REPLACE FRONT DISC BR
				032 001 001	REPLACE BATTERY
				042 004 018	REPLACE WATER PUMP BE
				043 003 008	REPAIR BRACKET INSU
				045 000 000	POWER PLANT
				052 001 001	REPAIR BASE - CIGAR L
11/09/00	0345810	082666	11	132 000 000	INSPECT TOW TRUCK
11/06/00	0612462	082666	38	013 002 012	REPLACE REAR BRAKE SH
				018 003 001	ADJUST DISC WHEEL ASS
				032 002 001	REPLACE STARTING MOTO
				042 000 000	COOLING SYSTEM
11/03/00	0344780	082666	11	002 024 001	REPAIR WINDSHIELD GLA
10/24/00	0609547	081666	38	034 003 007	REPAIR PARKING LAMP
				044 000 000	FUEL SYSTEM
				102 107 000	INSPECT 'B' PM WITH O
09/08/00	0597661	075549	38	013 002 013	ADJUST SHOE - REAR BR
				042 002 001	REPAIR RADIATOR CORE
				102 107 000	INSPECT 'B' PM WITH O
09/06/00	0596746	073210	11	032 001 001	REPAIR BATTERY
08/22/00	0593542	073170	11	032 001 001	REPAIR BATTERY
07/26/00	0326980	000011	04	017 000 000	REPAIR TIRES
07/12/00	0583111	065397	04	017 001 001	REPLACE 1ST AXLE OR S
06/20/00	0320920	065397	11	111 000 000	INSPECT STATE INSPECT
06/06/00	0572238	062940	38	002 000 000	CAB SHEET METAL
				013 001 029	REPLACE FRONT DISC BR
				018 001 002	ADJUST OUTER BEARING,
				018 002 006	REPLACE REAR WHEEL OI
				027 000 000	TRANS. MAIN, AUTO
				041 000 000	AIR INTAKE SYSTEM

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R Y D E R T R U C K R E N T A L , I  
VEHICLE CONTROL CARD

\*\*\* VEHICLE NO. 368077 \*\*\*

REPAIR ORDER				REPAIR ORDER	ODOMETER	REPAIR	TASK	DESCRIPTION
DATE	NUMBER		REASON					
				044 000 000			FUEL SYSTEM	
				103 107 000			INSPECT 'C' PM WITH O	
06/01/00	0317260	062400	11	002 024 001			REPLACE WINDSHIELD GL	
05/31/00	0572236	062940	38	002 020 001			REPAIR HINGE - SIDE D	
05/03/00	0565033	057427	08	017 001 001			REPLACE 1ST AXLE OR S	
				017 001 003			REPLACE 1ST AXLE OR S	
04/29/00	0563964	057247	08	103 107 000			INSPECT 'C' PM WITH O	
04/19/00	0561339	055780	10	032 001 001			REPAIR BATTERY	
03/10/00	0550597	047477	11	017 002 001			REPLACE 2ND AXLE RIGH	
03/03/00	0548757	047477	38	002 013 001			REPAIR FRONT FLOOR CO	
				002 020 001			REPAIR HINGE - SIDE D	
				044 000 000			FUEL SYSTEM	
				102 107 000			INSPECT 'B' PM WITH O	
				143 000 000			INSPECT WASH AND STEA	
02/16/00	0248243	044265	38	002 035 029			REPLACE WINDSHIELD WI	
02/07/00	0541243	042230	38	014 007 001			REPAIR CARRIER ASSEMB	
				018 003 000			INSPECT WHEELS	
01/25/00	0245930	039953	38	002 035 029			REPLACE WINDSHIELD WI	
01/20/00	0245171	039080	38	002 035 029			REPLACE WINDSHIELD WI	
01/06/00	0290340	037105	11	002 024 001			REPAIR WINDSHIELD GLA	
01/06/00	0532196	037105	38	013 001 026			REPLACE BRAKE ROTORS	
01/05/00	0531418	037105	38	013 001 014			REPLACE FRONT BRAKE S	
				102 107 000			INSPECT 'B' PM WITH O	
11/19/99	0282470	028769	11	002 024 001			REPLACE WINDSHIELD GL	
11/19/99	0520769	028769	38	002 035 029			REPLACE WINDSHIELD WI	
				102 107 000			INSPECT 'B' PM WITH O	
10/04/99	0508327	018545	38	013 001 020			REPAIR FRT. BRAKE CYL	
				034 002 004			REPAIR SOCKET AND WIR	
				043 003 004			REPAIR PIPE ASSEMBLY	
				102 107 000			INSPECT 'B' PM WITH O	
				143 000 000			INSPECT WASH AND STEA	
08/20/99	0496993	009670	08	102 107 000			INSPECT 'B' PM WITH O	
07/13/99	0481028	000056	21	053 000 000			EXPENDABLE ITEMS	
				115 000 000			INSPECT INSERVICE PM	
07/02/99	0260110	000072	10	002 000 000			INSTALL CAB SHEET M	



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R Y D E R   T R U C K   R E N T A L ,   I  
VEHICLE CONTROL CARD

\*\*\* VEHICLE NO. 368077 \*\*\*

REPAIR ORDER			REPAIR ORDER		ODOMETER REPAIR		TASK	DESCRIPTION
DATE	NUMBER		REASON					
07/01/99	0254170	000011	21	002	000	000	INSTALL CAB	SHEET M
06/29/99	0259541	000011	21	002	000	000	INSTALL CAB	SHEET M
06/24/99	0258840	000011	21	002	000	000	INSPECT CAB	SHEET M

\*\*\* END OF REPORT \*\*\*

## **APPENDIX E**

Light Duty Diesel and Gasoline Powered  
"B" or "C" Inspection

(Refer to Maintenance Manual, Procedure No. 6.4)

Unit Number 368077 Odometer Reading 81,666 Customer Name ADSI Iron mt Repair Order Number 609547

Refer Due? ☐ Yes ☒ No List the RDR campaigns due: CMC VAN Date 10/24/2000

Complete 100% of the Work, 100% of the Time, on Time.

Mark an X through any item repaired, adjusted, or serviced.

0	Drive on Inspection	Code	Init.
	Start engine, check for unusual noises or excessive exhaust smoke.	✓	OK
	Check steering wheel free play. (Power steering system must have engine running.)	✓	OK
	Clutch pedal free travel, if applicable.	—	—
	Check automatic transmission operation, if applicable.	✓	OK
	Check parking brake operation.	✓	OK
	Check service brake operation.	✓	OK
	Check operation of horn/instruments/accessories.	✓	OK
	Check back-up alarm, if applicable.	✓	OK
	Inspect road speed governor, if applicable.	✓	OK
	Check wiper/washer operation and condition.	✓	OK
	Check door glass, windshield, and mirror condition.	✓	OK
	Check seats/seat belt and floor mats.	✓	OK
	<b>Circle Inspection</b>		
	Check safety equipment.	✓	OK
	Check radiator and A/C condenser for debris.	✓	OK
	Check all lights, reflectors, and electrical junction box.	✓	OK
	Check mirror mounting.	✓	OK
	Record physical damage by photograph.	✓	OK
	Check operation of and lubricate all doors.	✓	OK
	Check operation of and lubricate loading ramp.	✓	OK
	Check towing devices.	—	—
	License plate and bracket, permits, and State Safety Inspection sticker.	✓	OK
	<b>Tire and Wheel Inspection</b>		
	Check tires for irregular or alignment wear.	✓	OK
	Check tires for cuts, tears, or bulges.	✓	OK
	Check for mismatched tread or casing design.	✓	OK
	Record tread depth. Record tire PSI and adjust, if needed. Check air pressure decals.	✓	OK
	Check for valve stems and caps.	✓	OK
	Check wheels for cracks or loose lugs/outer hub leaks.	✓	OK

13 80  
32nds PSI

12 80  
32nds PSI

0	Engine Compartment Inspection	Code	Init.
	Fill windshield washer reservoir.	✓	OK
	Check fan assembly/shroud and radiator.	✓	OK
	Check coolant recovery system.	✓	OK
	Check antifreeze protection level (-25° to -35° F).	✓	OK
	Check hose condition and routing.	✓	OK
	Check all belt driven components and belts for condition, adjustment, and alignment.	✓	OK
	Check power steering fluid.	✓	OK
	Check automatic transmission fluid level.	✓	OK
	Check for fluid leaks.	✓	OK
	<b>Battery Inspection</b> Low test 12.0 AH 300		
	Check open circuit voltage (minimum 12.3 volts).	✓	OK
	Check cables and hold downs for corrosion and security.	✓	OK
	<b>Under Vehicle Inspection</b>		
	Check exhaust system.	✓	OK
	Check for engine, transmission, and axle fluid leaks. Verify correct levels.	✓	OK
	Check brake drums/rotors and lining condition.	✓	OK
	<b>Raise Front End</b>		
	Inspect tires for cuts or damage.	✓	OK
	Inspect for loose or noisy wheel bearings.	✓	OK
	<b>Lubrication</b>		
	Change oil and filter(s).	✓	OK
	Inspect/lubricate chassis and accessories.	✓	OK
	Change fuel filter(s) (at Ryder shops only).	✓	OK
	Record inspection on Consumer Maintenance decal, if applicable.	—	—
	Attach PM Reminder decal (except consumer vehicles).	✓	OK

## Liftgate Items

These items are to be completed on all inspections, if applicable.		
Check fluid level.		
Check all hydraulic components.		
Check all electrical components.		
Operate lift gate, check for binding and level.		
Check safety catch operation.		
Inspect warning/operation decals.		
Check all pins and retainers.		
Check all stops, safety pins and chains, etc.		
Check lift cables, tracks, pivots, etc., if applicable.		
Lube all points per O.E.M.		
Continue with inspection on reverse side.		

Print Inspector's Name DAN KucumInspector's Signature Daniel Kucum6 25 = 12  
LF 3679  
FF 5199

## Light Duty Diesel and Gasoline Powered "B" or "C" Inspection

## "C" Inspection Items

0		Code	Init.
	Change automatic transmission fluid and filter, units with a plug in converter converter.		
	Add coolant additive, if applicable.		
	Perform wheel bearing inspection.		
	Check charging system (14.0 to 15.0 volts).		
	Gas engine and tune-up service refer to V.E.C.I. decal.		
	Visually inspect cap and rotor.		
	Replace spark plugs.		
	Inspect secondary wiring and routing.		
	Check EGR system.		
	Test air injection system and clean filters, if applicable.		
	Inspect/clean PCV valve; test system.		
	Listen for unusual noises/missing.		
	Road test consumer units only.		
	Check engine brakes and automatic transmission operation.		

Federal Annual Inspection  
(At Ryder Location Only)

Add these items for the Federal Inspection.

0		Code	Init.
	Inspect towing device.		
	Check fuel tank mounting/caps/lines.		
	Check entire steering system (power steering with engine running).		
	Check parking brake components.		
	Check brake hoses and lines.		
	Record brake lining thickness, drum rotor condition.		
	LF <u>    </u> / <u>    </u> LR <u>    </u> / <u>    </u>		
	RF <u>    </u> / <u>    </u> RR <u>    </u> / <u>    </u>		
	Check brake master cylinder fluid level.		
	Check springs and U-bolts.		
	Check spring shackles and hanger brackets.		
	Check frame and attachment members.		
	Install Federal Annual Inspection sticker.		

~~Little play L/F wheel bearing~~  
~~Exhaust hanger~~  
~~Exhaust hanger not working~~  
~~new lock doesn't work~~  
~~needs new AIT Belt~~  
~~Exhaust leak RIS at Exhaust manifold - P1~~  
~~Exhaust leak minor RIS at Exhaust manifold - P1~~  
~~Brakes need to come apart there is a problem brakes not working properly~~

All on Follow up sheet

This certifies that the inspection documented on this form complies with the requirements of FHWA 396.17-23.

Print Inspector's Name DAN Kutz wmm

Inspector's Signature Daniel Kutz wmm

## PM FOLLOW-UP SHEET

UNIT	<u>368077</u>	MILEAGE	<u>81,666</u>	DATE	<u>10/24/2000</u>
LOCATION	<u>0567</u> <u>Sp. Welton, MP</u>	ACCOUNT NAME	<u>ADST Inv mt.</u>		

[illegible]

6/23/2000

Note: All follow-ups are to be addressed and signed off. Techs making repairs use left column. Leadman approving use right column.





Stoneham  
APSI Iron mt

# Supplement Sheet

Unit # 368077 Odometer 81,666 Date 10/24/2000

## LIGHT DUTY, MEDIUM DUTY & HEAVY DUTY SUPPLEMENT SHEET

Mark an X through any item repaired, adjusted or serviced.

Check for height decal (4" numbers required)	<input type="checkbox"/>	Check block heater operation	<input type="checkbox"/>
Load test batteries and enter readings	<input checked="" type="checkbox"/>	Visual check of brake compressor air filter	<input type="checkbox"/>
0 10.0	0	Check unit file for spare key (cut one if missing)	<input checked="" type="checkbox"/>
Remove and clean all battery cable connections	<input checked="" type="checkbox"/>	Check wheels liftgate bumpers for rust and paint	<input checked="" type="checkbox"/>
Enter Krocket gauge belt readings below SELF ADJ	<input type="checkbox"/>	Check memory button for proper programming	<input checked="" type="checkbox"/>
Check for special orders parts (check parts shelf)	<input checked="" type="checkbox"/>	Use separate liftgate inspection sheet if required	<input type="checkbox"/>
Check for open campaigns	<input checked="" type="checkbox"/>	Remove and clean all liftgate cable connections	<input type="checkbox"/>
Check air brake units have pull drain cord	<input type="checkbox"/>	Enter brake rod travel measurements below	<input type="checkbox"/>

RECORD KROCKET GAUGE USED AND TENSION MEASURED ON EACH BELT. RECORD TENSION SPECIFICATION.

BELT	KROCKET GAUGE	BELT TENSION	TENSION SPEC.
AH.	SELF ADJ.		

ENTER BRAKE ROD THROW MEASUREMENTS IN SPACES PROVIDED BELOW

	FRONT AXLE	REAR AXLE	TANDEM AXLE
RIGHT SIDE			
LEFT SIDE			

Revised 04/23/99